

## CEMETERY BOARD MEETING

### MINUTES

June 6, 2007

The Cemetery Board met on June 6, 2007, at the Department of Professional and Occupational Regulation (DPOR), 3600 West Broad Street, Richmond, Virginia. The following members were present:

Kenneth R. Bell, Chairman  
Isabel Berney  
Mike Doherty  
Randy Gleason  
Delores King  
Mike Kirsch

DPOR staff present for all or part of the meeting included:

Jay W. DeBoer, Director  
Karen O'Neal, Deputy Director  
Christine Martine, Executive Director  
Herb Nichols, Investigator  
Earlyne Perkins, Legal Analyst  
Chris Olson, Administrative Assistant

No representative from the Office of the Attorney General was present at the meeting.

Chairman Bell called the meeting to order at 9:00 AM

#### **Call to Order**

William A. Tucker, a member of the Board for Professional and Occupational Regulation, was present to observe the proceedings of the Board meeting. No one addressed the Board during the Public Comment period.

#### **Public Comment**

A motion was made by Mr. Doherty and seconded by Mr. Gleason to approve the agenda. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Doherty, Gleason, King, and Kirsch.

#### **Agenda**

A motion was made by Ms. King and seconded by Mr. Doherty to adopt the following minutes: January 10, 2007, Board Meeting; March 15, 2007,

#### **Minutes**

Informal Fact-Finding Conference; May 8, 2007, Informal Fact-Finding Conference; and May 10, 2007 Informal Fact-Finding Conference. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Doherty, Gleason, King, and Kirsch.

In the matter of **File Number 2006-04066, Star City Memorial Sales Subsidiary, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Bell and seconded by Mr. Gleason to accept the Consent Order wherein Star City Memorial Sales Subsidiary, Inc. admits to violations of §54.1-2328 (2 violations), of the *Code of Virginia* (Count 1), and §54.1-2326 (4 violations) (Count 2), of the *Code of Virginia*, and 18 VAC 47-20-190.13 (4 violations) (Count 3) of the Board's 2000 regulations and agrees to a monetary penalty of \$500.00 for each violation contained in Count 1, \$500.00 for each violation contained in Count 2, and \$1,500.00 for each violation contained in Count 3 and agrees to pay \$150.00 in Board costs for a total of \$9,150.00. Additionally, Star City Memorial Sales Subsidiary, Inc. agrees to refund \$3,378.00 to the Hansen family for Violation 1 of Count 3 within 30 days of the Board's acceptance of this order, and providing the Board with proof of payment of the refund. Upon receipt of proof of payment to the Hansen family, Star City Memorial Sales Subsidiary, Inc. agrees to the \$1,500.00 monetary penalty for Violation 1 of Count 3 and the Board shall waive imposition of the following monetary penalties: Count 1 (\$1,000.00), Count 2 (\$2,000.00) and Count 3 (Violation 2, 3 and 4 - \$1,500.00 x 3 = \$4,500.00). If Star City Memorial Sales Subsidiary, Inc. fails to comply with these conditions, then the full monetary penalty will be automatically imposed. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Gleason, and King.

**File Number 2006-04066,  
Star City Memorial Sales  
Subsidiary, Inc.**

As the reviewing Board member Mr. Doherty did not participate in the discussion or votes related to this matter. Due to a possible conflict of interest, Mr. Kirsch recused himself from voting in this matter.

In the matter of **File Number 2007-01509, SCI Virginia Funeral Services, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. Berney and seconded by Ms. King to accept the Consent Order wherein SCI Virginia Funeral Services, Inc. admits to a violation of §54.1-2339 of the *Code of Virginia* and agrees to a monetary penalty of \$500.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$650.00. SCI Virginia Funeral Services, Inc. completed construction of the mausoleum on December 27, 2006, failing to start construction of the mausoleum within four (4) years of the date of the first sale and did not complete construction within five (5) years after the date of the first such

**File Number 2007-01509,  
SCI Virginia Funeral  
Services, Inc.**

sale. Therefore, SCI agrees to give refunds to any preneed customer who requests their money back for this mausoleum. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Gleason, King, and Kirsch.

As the reviewing Board member Mr. Doherty did not participate in the discussion or votes related to this matter.

In the matter of **File Number 2007-03364, Misty Tabor**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Ms. Tabor, the applicant, was present and addressed the Board. A motion was made by Mr. Gleason and seconded by Mr. Kirsch to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Ms. Tabor’s application for a cemetery sales personnel registration. The motion passed unanimously. Members voting “Yes” were Berney, Doherty, Gleason, King, and Kirsch.

**File Number 2007-03364,**  
**Misty Tabor**

Due to a possible conflict of interest, Mr. Bell recused himself from voting in this matter.

In the matters of **File Number 2007-04147, Brian Hensley**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Mr. Hensley, the applicant, was present and addressed the Board. A motion was made by Ms. Berney and seconded by Ms. King to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Mr. Hensley’s application for a cemetery sales personnel registration. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Doherty, Gleason, King, and Kirsch.

**File Number 2007-04147,**  
**Brian Hensley**

In the matter of **File Number 2007-04443, Heritage Family Management, Inc.**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. A motion was made by Mr. Bell and seconded by Mr. Kirsch to accept the recommendation as written and approve Heritage Family Management, LLC as the trustee for Heritage Family Cemetery, Inc. provided that any material change in management or ownership is reported to the Board within thirty days. The motion passed unanimously. Members voting

**File Number 2007-04443,**  
**Heritage Family**  
**Management, Inc.**

“Yes” were Bell, Berney, Doherty, Gleason, King, and Kirsch.

In the matters of **File Number 2007-04529, Benjamin Hale**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. A motion was made by Ms. Berney and seconded by Mr. Gleason to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Mr. Hale’s application for a cemetery sales personnel registration. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Doherty, Gleason, King, and Kirsch.

**File Number 2007-04529,  
Benjamin Hale**

Christine Martine updated the Board on the status of the Regulations. No action was taken by the Board.

**Regulations**

Mr. Bell addressed the Board concerning DUI Convictions on license applications. A motion was made by Mr. Doherty and seconded by Mr. Gleason to give staff the authority to issue licenses that have one misdemeanor DUI conviction noted. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Doherty, Gleason, King, and Kirsch.

**New Business**

Mr. Doherty addressed the Board concerning the 8 hour compliance agent training course and the possibility of reducing the amount of hours required. The Board agreed without dissent to review this information during the next regulatory review process.

Mr. Doherty addressed the Board concerning the requirement that cemetery companies provide Annual Trust Fund Reports with a CPA Audit. The Board agreed without dissent to defer this item to its next scheduled Board meeting.

Herb Nichols addressed the Board concerning the use of the term “Community Cemetery”. Mr. Nichols suggested that the Board determine a standard definition of “Community Cemetery” for future use by staff members to aid in the determination of exempt status. In regards to the use of the term “Community Cemetery”, Mr. Nichols discussed a cemetery that is currently considering itself as a “Community Cemetery”. A motion was made by Mr. Bell and seconded by Ms. King to have staff draft a letter from the Board to the Circuit Court in regards to the cemetery in question. The motion passed unanimously. Members voting “Yes” were Bell, Berney, Doherty, Gleason, King, and Kirsch.

A motion was made by Mr. Gleason and seconded by Ms. King to adopt the following resolutions to honor the years of dedicated service by former Board Members Randy Minter, David Mark Farris II, and Carol W. Black to the Board: **Resolutions**

**RESOLUTION IN HONOR OF**

**Randy Minter**

WHEREAS, Randy Minter did faithfully and diligently serve as a member of the Virginia Cemetery Board from 1998 to 2004;

WHEREAS, Randy Minter did devote generously of his time, talent and leadership to the Board;

WHEREAS, Randy Minter did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Cemetery Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Virginia Cemetery Board this sixth day of June 2007, that Randy Minter be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

**RESOLUTION IN HONOR OF**

**David Mark Farris, II**

WHEREAS, David Mark Farris, II did faithfully and diligently serve as a member of the Virginia Cemetery Board from 1998 to 2006;

WHEREAS, David Mark Farris, II did devote generously of his time, talent and leadership to the Board;

WHEREAS, David Mark Farris, II did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Cemetery Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Virginia Cemetery Board this sixth day of June 2007, that David Mark Farris, II be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

#### **RESOLUTION IN HONOR OF**

##### **Carol W. Black**

WHEREAS, Carol W. Black did faithfully and diligently serve as a member of the Virginia Cemetery Board from 2002 to 2006;

WHEREAS, Carol W. Black did devote generously of her time, talent and leadership to the Board;

WHEREAS, Carol W. Black did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Cemetery Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Virginia Cemetery Board this sixth day of June 2007, that Carol W. Black be given all honors and respect due her for her outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to her and be made a part of the official minutes of the Board so that all may know of the high regard in which she is held by this Board.

The motion passed unanimously. Members voting “Yes” were Bell, Berney, Doherty, Gleason, King, and Kirsch.

The meeting adjourned at 10:07 AM.

**Adjourn**

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Kenneth Bell, Chairman

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Jay DeBoer, Secretary